

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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|--|---|------------------------|
| CHRISTOPHER SHEPHERD and BRYANT |) | |
| DAVIS, individually and on behalf of all other |) | |
| similarly situated persons, known and |) | |
| unknown, |) | Case No. 1:24-cv-06600 |
| |) | |
| Plaintiffs, |) | |
| |) | Hon. Sara L. Ellis |
| v. |) | |
| |) | |
| FLEX-N-GATE LLC, and Illinois limited |) | |
| liability company; FLEX-N-GATE |) | |
| PLASTICS LLC, and Illinois limited liability |) | |
| company; and FLEX-N-GATE CHICAGO, |) | |
| LLC, a Delaware limited liability company, |) | |
| |) | |
| Defendants. |) | |
| |) | |

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs Christopher Shepherd and Bryant Davis respectfully submit this supplemental authority to inform the Court of the recent decision in *James Dal Cerro v. NTN Bearing Corporation of America*, 2024-L-000075 (Cir. Ct. Sixteenth Judicial Circuit Ill. June 18, 2024).¹ This case involves a class action complaint alleging a violation of the Illinois Genetic Information Privacy Act (“GIPA”), 410 ILCS 513/1 *et seq.*, arising from the defendant employer’s alleged solicitation of the plaintiffs’ family medical history during a mandatory preemployment physical examination performed by a third-party medical provider selected by the employer. *Dal Cerro* squarely address the arguments raised in opposition to Defendants’ 12(b)(6) Motion to Dismiss

¹ Copies of the Order denying the defendant’s motion to dismiss in *Dal Cerro*, as well as the defendant’s corresponding brief in support of its motion, are attached as **Exhibit 1** and **Exhibit 2**, respectively.

and 12(f) Motion to Strike (“Motion”) and supports Plaintiffs’ contention that the Defendants’ direct or indirect solicitation and collection of information regarding prospective employees’ family medical histories during the course of preemployment Fitness-For-Duty or other similar physical examinations violated sec. 25(c)(1) of GIPA and gives rise to an actionable claim against them.

The Court may rely on the *Dal Cerro* opinion as persuasive authority. Good cause exists to support this Notice as Plaintiffs were unaware of the existence of the *Dal Cerro* decision at the time they filed their response brief. Defendants’ Motion is currently pending before the Court.

Dated: November 12, 2024

Respectfully submitted,

/s/ S. Jarret Raab

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, I caused a true and correct copy of the foregoing Plaintiffs' Notice of Supplemental Authority to be filed with the Clerk of the Court for the Northern District of Illinois via the Court's CM/ECF system, which will send notification of such filing to the counsel of record in the above-captioned matter.

/s/ S. Jarret Raab

S. Jarret Raab